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NANCY TAI

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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NANCY TAI,	:	Index No.: 15-cv-206
	:	
Plaintiff,	:	
	:	
-against-	:	<b>COMPLAINT FOR</b>
	:	<b>DECLARATORY JUDGMENT</b>
	:	
YAN WANG and JOHN DOES 1-10;	:	
	:	
Defendants.	:	<b>JURY TRIAL DEMANDED</b>
	:	
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Plaintiff Nancy Tai ("Plaintiff", or "Ms. Tai") by her attorneys, for her complaint against Defendants Yan Wang ("Defendant" or "Wang") and John Does 1-10, alleges as follows:

**Subject Matter Jurisdiction and Venue**

1. This is an action for a declaratory judgment under 28 U.S.C. § 2201. This Court has subject matter jurisdiction over the claims pursuant to 28 U.S.C. §§ 1332. Plaintiff and Defendants are residents of different states, and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.
2. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b) as a substantial

part of the events or omissions giving rise to the claim and the threatened and actual harm to Plaintiff occurred in this District by reason of Defendants' conduct as alleged below, and Defendants are subject to this Court's personal jurisdiction in this judicial district.

### **Parties and Personal Jurisdiction**

3. Plaintiff, Ms. Tai is a citizen and resident of Taiwan.
4. Defendant Wang's origins and nationality are unknown. Defendant provided false Whois contact information, listing only "Haerbin, China" in the Registrant Street and Registrant City fields. Defendant also provides a false postal code of "334400." Upon information and belief, postal codes for Ha'erbin range from 150000-151000. Defendant provides [BIENIAOWO88@GMAIL.COM](mailto:BIENIAOWO88@GMAIL.COM) as the registrant and administrative contact email address for the Domain Name.

### **Background**

5. Plaintiff is a domain name investor. Plaintiff registers generic and descriptive domain names, often containing numbers or combinations of numbers and letters, that have value, and holds them for development or possible resale.
6. Plaintiff was using the domain name **<640.com>** as directory Web site, with advertisements for productions and tens of thousands of links to other Web sites (the "Domain Name"). This site is down – i.e., it no longer resolves on the Internet – and is in danger of losing all of its users and good will.
7. Defendant is an Internet hacker and domain name thief. On or about December 16, 2014, Defendant hijacked the Domain Name out of Plaintiff's account with the domain name registrar eNom.
8. At the time that the Domain Names were stolen from Plaintiff's eNom account, Plaintiff

was the legal registered name holder and registrant of the Domain Name. The Domain Name was in good standing.

9. Plaintiff's eNom account was password protected. Plaintiff did not share her account user name or password with anyone.

10. Plaintiff did not authorize the transfer of the Domain Name to Defendant or any third party.

11. At approximately 3am PST on December 16, 2014, Plaintiff received several emails confirming that the Domain Name in her eNom account had been "pushed" (i.e., transferred) to eNom account, ID: "BIENIAOWO88." Plaintiff did not authorize this transfer.

12. Upon learning that the Domain Name had been hijacked from her account – approximately a day or so after the theft – Plaintiff immediately contacted eNom to report the theft, however, the hijacker had already transferred the Domain Names to a different account at GoDaddy.

13. Someone using other unidentified IP addresses also accessed Plaintiff's account hours before the theft occurred. Upon information and belief, Defendant used a number of different proxy servers to mask Defendant's true IP address, location, and identity.

14. Plaintiff immediately requested that Go Daddy return the Domain Names to Plaintiff.

Following ICANN's Transfer Dispute Resolution Policy ("TDRP"), Go Daddy refused to return the Domain Names to Plaintiff, since the transfers were confirmed by the Defendant, using the email address [BIENIAOWO88@GMAIL.COM](mailto:BIENIAOWO88@GMAIL.COM). This was accomplished, however, *after* Defendant had already pushed the Domain Names into the fraudulent BIENIAOWO88 eNom account.

15. In this case, because the Defendant had already stolen the Domain Name and changed the email address (and registrant) on the eNom account prior to initiating transfer requests for the Domain Name, Defendant was able to confirm its own fraudulent transfers.
16. Defendant's theft of the Domain Name, and interference with Plaintiff's rightful ownership thereof, was wrongful and has inflicted substantial harm on Plaintiff.
17. Short domain names comprised of letters and numbers are worth thousands to tens of thousands of dollars, individually, and in the aggregate, worth more roughly \$100,000 or more.
18. Plaintiff seeks a declaration from this Court that Plaintiff is the rightful owner of the Domain Name and ordering their transfer to Plaintiff.

### **FIRST CAUSE OF ACTION**

#### **[Declaratory Judgment]**

19. Plaintiff realleges and incorporates by reference Paragraphs 1 through 18 as though fully set forth here.
20. The Domain Name was rightfully registered by Plaintiff with eNom, and was in good standing at the time that they were hijacked by Defendant. Ms. Tai never authorized its transfer to Defendant, or any other party.
21. As such, Ms. Tai is the rightful registrant and registered name holder of the Domain Name.
22. A justiciable controversy exists between Ms. Tai and Wang.
23. To resolve this actual controversy, Ms. Tai seeks a declaration and judgment that she is the rightful registrant and registered name holder of the Domain Name, and seeks an Order of this Court transferring the Domain Name to Plaintiff.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for a declaratory judgment against Defendant that:

1. Ms. Tai is the rightful registrant and registered name holder of the Domain Name;
2. That the Domain Name immediately be transferred to Ms. Tai; and
3. such other relief as the Court deems just and equitable under the circumstances.

Dated: January 14, 2015

Respectfully submitted,

**Lewis & Lin, LLC**

/s/ Justin Mercer

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Attorneys for Plaintiff  
NANCY TAI

**DEMAND FOR TRIAL BY JURY**

Please take notice that Plaintiff, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, hereby demands trial by jury for all issues so triable.

Dated: January 14, 2015.

Respectfully submitted,

Lewis & Lin, LLC

/s/ Justin Mercer

Attorneys for Plaintiff  
NANCY TAI